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App F IX 4

Previous References

1947 48
(Pt)

File No 40-47
Serial Nos 153, 154

Later References
and 40-47 (201 202)

GENERAL AND REVENUE SECRETARIAT

Serial Nos
-WO

Part B for February 48

SUBJECT

Election of Mr B Kunkateeaou a Borgesse of the Challakere town Municipal Council

K 13197 of 16 2-48

" & enclosures

State, Mal- Mo
Set aside

Vl

320 Fmt

General and Revenue Secretariat | File No of 194 | [App I III-2

Serial No

From

The Deputy Commissioner
Chittaldrug District, Chittaldrug

Letter No A6 C 561/46-47 dated 9-12-1947

Requests that in the circumstances stated the election of Mr B Venkatesan, as non official President of the Chellakere town Municipal board may be approved and a notification issued as

1) Stated It is stated that the election was regularly held and Mr B Venkatesan was elected as President of the Town Municipal Council Chellakere

2) It is also stated that one objection petition contesting the validity of the election was received from M/s Jayaramappa, G M Musa Sab, and S Siva Naik and that the S D O Chittaldrug who was appointed to enquire into the allegations mentioned in the petition has submitted his report

3) The several allegations made are stated to be untenable and the Dy Commr, Chittaldrug requests approval of the election of Mr B Venkatesan as President of the Chellakere M C

4) The Law Branch may also be consulted, if necessary, as to the validity of the allegations made

LS 16/12

5) Nine objections were raised by the petitioners against the election They have all been

NOTE—Contn Sheet.

3207
M

File No

of 194

General and Revenue Secretariat

Serial No

gone into in detail by the Enquiry Officer and the D.C. Nilambur has in accordance with the findings of that officer held that the allegations of the petitioners are untenable and that the election as regularly held and the votes, the Returning officer rejected and accepted by the election notified.

6) The election of the Presidents was held on 15.5.47. The returns of voting have been transmitted to the Govt. on 9.12.47 & contain the votes polled by candidates. The result is that the candidate elected has got four hundred votes, kept entirely for the purpose. This is not a desirable state of affairs. The election in such cases should be held in a manner which will secure the presentation of the objects before this would be granted only for the Dt. Collector's report.

7) The remarks of the Dist. Magistrate may be noted for the directions on the findings of the Enquiry Officer.

8) I agree.
16/12

Revenue (Elections) Dept.

3224 TMV

3207/me

For favour of opinion

9) Law Secy W/C

17/12/47

3248

13 DEC 1947

18/12

GOVT OF MYSORE

10) The Deputy Commissioner's report is exhaustive but there are conflicting reports of the Assistant Commissioners. The Administrative Secretariat may consider the facts, if any, and points of law on which opinion is sought, may be specifically stated

for 18/12

3491

DEC 1947

for 22/12

Law Secy) W/C

8K 27/12

fr 27/12

GOVERNMENT OF MYSORE

11) Legal opinion would be helpful on the following points -

(a) Item No (1) of the Deputy Commissioner's report - The service of the notice, only ten days before the date of meeting, on Mr B. Venkatesan who has deposed that it has been served in time

(b) Item No (3) of the Deputy Commissioner's report Validity of the Amildar's presiding over the elections

(c) Item No 5 of the Deputy Commissioner's report - The finding of blank papers in the box and the help given by the Amildar to one of the voters

(d) Item No 7 of the Deputy Commissioner's report Whether the Amildar can also exercise his vote.

(e) Item No. 8 of the Deputy Commissioner's report Amildar's power to entertain withdrawal applications

(f) Item No 9 of the Deputy Commissioner's report Whether the holding of the Vice President's election in the same meeting does in any way invalidate the President's election

Law Secretary
w/c

355

12 JAN 1948

8K 12/1

fr 12/1

8/1/48

Election of President - Chairman Municipal Council

12) (a) The proviso to Rule (1) contemplates 15 day's notice of such meeting It is stated by the Deputy Commissioner that the notice was published on 28th April 1947 when the meeting was to be held on 15th May 1947 It is stated to have been served on Mr B Venkateshan (now elected) 10 days before This appears to be only an irregularity, not an illegality, especially so when all the members had due knowledge of the same and attended the same

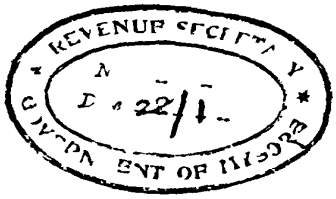
(b) The Amildar presiding over the meeting does not appear to be illegal as he is the ex-officio president

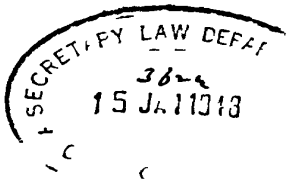
(c) It is stated that there were 21 voting papers in the ballot box and in addition there were a number of unused papers The presence of these blank papers had to be explained suitably, or malpractice as alleged, has to be proved, specifically This is purely a matter for the Administrative Secretariat to decide

(d) This is a matter to be decided by the Administrative Secretariat with reference to the various orders issued by the Administrative Secretariat as mentioned by the Deputy Commissioner

(e) It is open to the candidates to withdraw their candidatures It is not clear whether any rule (as in the case of Vice-Presidents) has been framed to that effect This may perhaps be verified by the Administrative Secretariat

(f) If the election of the Vice-President w also was included in the agenda for the meeting, the meeting could hold the election This does not appear to be illegal but only an irregularity, which may be condoned





Law Secy) for 15/1

13) Revenue Secy) 21/1/48 Minister for Finance

Election of President for Chellakere Town Municipal Council

14) (a) Item No 1 of the D C's report-

As regards the notice served on Mr B Venkatesham only ten days before the meeting, the Law Secretary is of the opinion that this appears to be only an irregularity and not illegality, especially so, when all the members had due knowledge of the same and attended the same. This opinion maybe accepted

(b) Item No 3 of the D C's report-

The legal opinion is to the effect that the Amildars presiding over the meeting does not appear to be illegal as he is the ex-officio President This view as also correct, may be accepted

(c) Item No 5 of the D C's report-

The presence of blank papers in the ballot box the Law Secy states that the presence of blank papers had to be explained suitably or malpractice as alleged, has to be proved, specifically As malpractice has not been proved specifically by the petitioners, the D C's proposal

Election of President for Chelmsford Town Municipal Council

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to accept the voting as correct - may perhaps be accepted this may be agreed to for

(d) Item No 7 of the D C's report -

Whether the Amildar can also exercise his vote - this point, the Law Secy states has to be decided by the Administrative Secty the Dy Comm has clearly explained that the Amildar is entitled to vote as he is not an interim President, but ex-officio President - the D C's opinion may be accepted } this view is correct but may be accepted for

(e) Item No 8 of the D C's report -

About the Amildars power to entertain withdrawal applications, the Law Secy states that it is open to the candidates to withdraw their candidature the D C's opinion that the petitioners' allegation is not tenable may be accepted } yes sir

(f) Item No 9 of the D-C's report -

Holding the election of Vice-President also at the same meeting on the same day

Election of President in the Chellakere Town Municipal Council

3207

The Law Secretary states that if the election of the Vice President was also included in the Agenda for the meeting, the meeting could hold the election and that thus does not appear to be illegal but only an irregularity which may be condoned. This may be done

Quote for 15)

In the light of what is stated in the Law Secretary's note, the election of the B Venkatesan may perhaps be affirmed

Htr 28/1/48 Pr 28/1/48 16) From the foregoing notes, it will be seen that there are no illegalities which would vitiate the election. Some of them may at best be termed as irregularities but they are not also of a serious nature.

17) We do not propose to go into the points in detail and thus give our definite opinion in respect of all of them. In the circ

3925/2

election of Mr Venkatesan as President, Chettinad Town Municipality may be approved

Minister for L.S.G.

29-1-48

Rec'd by (letter) absentee ballot 29/1/48

18) The election of President of Chettinad Town Municipality is set aside and a fresh election may be held

SE 11/2/48

C C O
THE MINISTER FOR
LOCAL SELF GOVERNMENT
No 1155
Date 5 FEB 1948

19) S 11/2

20) Dft please

11/2/48

21) Submitted with a draft letter to the D C Chettinad for approval

AAV 13-2-48 Br 13-2-48

Approved

14.2.48

13/2/48

Issued to the Deputy Commissioner, Chettinad in letter No L 13497/MC 40-47-154 dated 16-2-48

KB 14

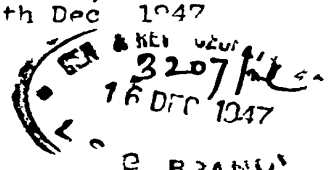
Br Officer

ML 40-47-153

Office of the Deputy Commissioner,
Chitaldrug District,
Chitaldrug, dated, 6th Dec 1947

No A6 C 561/46-47

Encl 1 file



To

Syed Abdul Aleem Esq, B A,
Secretary to Government, Revenue Department, Bangalore

Subject, Election of Mr B Venkatesan, as President of Chellakere town Municipal council

I have the honour to state that the Chellakere Minor Municipal council was converted into a town Municipality with effect from 1-1-47 as per the Govt notification No L 2263/M 1 80-46-2 dated 8-8-1946 The constitution of this town Municipal council was notified in G O No L 2941- 1 41-46-28 dated 30-12-1946 under Section 23(2) (b) of the Mysore town Municipalities act 1933, the Amildar of the Chellake talu is appointed the Ex-officio President of the Municipal Council and under the proviso to section 9(2) he is also notified an additional councillor in the above notification dated 30-12-1946

2) On the representation made by the Municipal council, Govt were pleased to confer on the Chellakere town Municipal Council the privile of electing a non official president from among its members, in G O No L 13448-51 M 1 167-1C-18 dated 5-4-47 The ex-Officio President of the Municipality conducted the election proceedings The election of the President was held on 15-5-47 as per the calender of events issued The following councillors stood as candidates for the election

Messrs
1) K Jayaramappa,
2) S Suranaik
3) D S Murigappa
4) C Subbraya setty,
5) C I Musa saheb
6) H B Mallappa,
7) D S Krishna Reddy
8) B Venkatesan,
9) S Bukar Murigappa
10) B Padmanabha Rao,
11) Madjige Veerabhairappa
12) C S L Lakhminarayana Rao

All the above Municipal councillors except Serial No 1 and 8

withdrew their candidature

M/s 1) Jayaramappa and (2) B Venkatesan, contested in the election when the former secured ten votes and the latter eleven votes The Munic pal council, dt, its special general meeting held on 15-5-47, declared Mr B Venkatesan as the President of the Municipal council

3) Under rule 7 of the rules regulating the election of Presidents of town and minor Municipal councils, prescribed in G O No L 3055-M 1 207-37-1 dated 26-11-1937 the following 3 Municipal councillors

M/s

1) K Jayaramappa

2) C M Musa sab

3) S Surya Naik

presented a petition to this office on 21-5-47 contesting the validity of the election for the reasons stated therein and requesting to set aside the election Under rule 8 of the election rules, the Sub Division Officer, Chitaldrug was appointed in this office memo No AE P R 561/46- 7 dated 5-6-47 to enquire into the allegations made in the petition and to submit a report in the matter The Sub Division Officer, Chitaldrug has held the enquiry and submitted his report in his letter No R3 93/46-47 dated 26-11-47

1 The allegations made by the petitioners and the validity of each are as follows,

Allegations made	VALIDITY OF THE ALLEGATION
1) That there was no valid notice given of the meeting that was held on 15-5-47 for the election of the President	As per rule 1 of the election rules at least fifteen days' notice of every such meeting has tobe given Notice calling for a special general meeting of the council for the election of the President on 15-5-47 was issued and published by the President on 28-4-47 It has also been served on all the Municipal councillors and all of them were present at the special meeting held for the election of the President The Sub Division officer, Chitaldrug who conducted the enquiry has reported that the meeting notice was published on 28-4-47 and 29-4-47 but it was served ten days before the election ie, on 5-5-47 on Mr B Venkatesan who is now elected as president

	Mr B Venkatesan in his statement given before the Sub Division Officer on 17-6-47 has deposed that the notice has been issued in time From the above, it is clear that the meeting notice was issued and published intime The objection raised in the petition is not tenable
The names of the candidates that contested for the Presidential election were not duly notified at the Municipal office	As per rule 3 of the election rules, the names of the candidates have tobe notified at the Municipal office at least five days before the day fixed for holding the meeting The list of candidates was notified at the Municipal office at 11 A M on 5-5-47 The meeting for conducting the election, was held on 15-5-47 Five clear days interval is given between the publication of the list of candidates and the day of the election The objection raised in the petition is not tenable
That the councillors present at the meeting on 15-5-47 did not select for the purpose of presiding at the meeting one from among themselves The Amildar had no authority to preside at the said meeting and the whole proceedings on that day are ultravires	As per rules 4 of the election rules, the councillors present on the day of election, shall for the purpose of presiding at the meeting select one from among themselves, who is not a candidate In the present case, the Amildar, has been appointed as ex-officio president and notified by Govt as an additional councillor As per section 24(1) (a) of the Mysore town Municipalities Act 1933, it is the duty of the president of the Municipal Council to preside at all the meetings of the Municipal council As per this provision, contained in the Act, the Amildar, as ex-officio president of the Municipality has presided at the meeting The rule 4 of the elect on rules, cannot supersede the provisions contained in the Municipal Act The Secretary to Govt Law Department, Bangalore, in his letter No L 435/ML 56-41-2 dated 21-7-1941, has stated that the interim Presidents shall preside at the election of non official presidents The Secretary to Govt Revenue Department in his letter No L 15948/M1 138-46-6 dated 16-5-1947 has stated that when the statute provides that a chairman, (ad-interim president) shall continue in office until his successor is appointed, he presides at the meeting of the council The Amildar as ex-officio president and additional councillor, has got full power to preside at the meeting and the entire proceedings are in order The allegation contained in the petition cannot be held to be correct and as such, it may be over ruled
4) That the respondent has borrowed Rs 2000/ on 14-5-47 and 15-5-47 and has indulged in corrupt practice to secure votes in his favour at the presidential election	Mr K Jayaramappa one of the petitioners, in his statement given before the Sub Division Officer on 17-6-47 has deposed that Mr B Venkatesan has borrowed Rs 2000/ for election purposes and he has not furnished any proof for this The other two petitioners have deposed that they have nothing more to add to what is given in their petition

ithdrew their candidature

s/s 1) Jayaramappa and (2) B Venkatesan, contested in the election

4) continued

In the statement given by Mr S Venkatesan before the Sub Division Officer on 17-6-47 he (Mr Venkatesan) has deposed that he has a cloth shop at Challakere and that the trade transaction are generally done by his brother as joint family business He has borrowed Rs 1000/ on 14-5-47 from Mr B K Thipranna and Rs 1000/ from Mr T Subbarayal Setty (Municipal councillor) on 15-5-47 on executing promotes and has given the amount to his brother for the shop transactions as usual No proof is given by any of the petitioners to show that Mr Venkatesan has used currupt practice in securing votes in his favour The Sub Division Officer, Chitaldrug who has conducted the enquiry reports, that the allegations that Mr B Venkatesan used currupt practice in securing votes, cannot be accepted until it is evidentically proved This allegation cannot be accepted as it is not proved

5 That the ballot papers that were issued on 15-5-47 at the Presidential elections were not in order, no counterfoils have been maintained, the paper does not bear the signature of the Amildar so as to secure the identity of the papers issued The ballot box contains more than 21 ballot papers The sealed box may kindly be got and opened by your honor for verification That the Amildar had no power to offer his help to any councillor who exercised his vote on that day, and it is learnt that the Amildar has not even made a note of the help rendered by him It cannot be found by seeing the ballot paper, as to which candidate he marked

No form for the ballot paper is prescribed in the president's election rules for adoption as voting paper The Amildar president has taken the signatures of the councillors on a sheet of paper and issued the voting papers on 15-5-47 All the 21 councillors (including the Amildar Ex-Officio President) have affixed their signature for having taken the voting paper on 15-5-47 This cannot be construed to be irregular The Sub Division Officer, Chitaldrug who has examined the case reports in his letter No 93 dated 31-7-47 that the sealed box which was in the safe custody in the try was got opened in the presence of the contending petitioners and their counsels Mr Venkatesan the respondent and the Amildar president The voting papers were counted in the presence of all the parties There are 21 used voting papers for the presidents election These were tied and sealed In addition, there were a number of unused papers in the ballot box As per the general election rules, the polling officer has to assist the voter in recording the vote In the present case, the Sub Division Officer, who has examined the case, has, in his letter No 93/96-11-47 reports that Mr Fujari Challakerappa has stated in his deposit on on 20-11-47 that he (Mr Challakerappa) requested the Amildar to assist him in recording his vote and that the Amildar complied with his request as per his desire The Sub Division Officer has also stated that the Amildar has written as "Assisted" against the name of Mr Challakerappa whom he assisted in voting In the above procedure adopted there is nothing irregular as alleged in the petition

6) That no signature was taken for having issued the voting papers

This is also not true The Amildar president has obtained the signatures of all the 21 councillors on a sheet of paper for having issued the voting paper on 15-5-47

7) That the Amildar exercised his vote at the Presidential elections It is submitted that he had no such power to vote at the Presidential elections

This allegation also cannot be accepted The Amildar is notified by the Govt in G O No L 9241-"I 41-46-38 dated 20-12-46, under Section 93(2) (b) of the Mysore Municipal Act as the ex-officio President of the Municipal council and under the proviso to section 9(2) thereof, he shall be

continued Sl No 7)	an additional councillor Govt in their order No L 950-C 1 44-80-5 dated 22-7-30 and I 6960-70 M1 163-38-2 dated 25-07-2-1938 have directed that the official members nominated to the town and Minor Municipal councils may vote at the election of Presidents and vice Presidents of the respective Municipal councils The action of the Amildar and Ex Officio President in having exercised his vote in the election is in order as he is not an interim president
8) The Amildar had no power to entertain withdrawal applications	Out of the twelve councillors who stood for the election of the president, ten councillors withdrew their candidature and the remaining two contested in the election Rotation is laid down in the election rules re the withdrawal of candidates When the candidates tender withdrawal applications, the usual procedure is to eliminate their names and proceed with the remaining candidates The allegation mentioned in the petition is not tenable
c) That the meeting held on 15-5-47 for the election of the President was not proper as fifteen days notice was not properly given and also as the election of a vice President took place at the same meeting	The notice calling for the special General meeting of the council was issued and published on 28-4-47 and 29-4-47 and the election was held on 15-5-47 15 clear days interval is given from the date of issue of the notice and the date of the election as contemplated in the election rules There is no rule to prohibit the Municipal council to take up the election of the vice President at the same meeting The allegation mentioned in the petition is not tenable

Under the above reasons noted against the several allegations made in the petition, it is clear that the allegations of the petitioners are not tenable The election is regularly held The petition of the three councillors may be rejected and the election of Mr B Srikantesan, as non official President of the Chellakere town Municipal council may kindly be approved and a notification issued very early

All the connected papers are enclosed for the kind information of Government

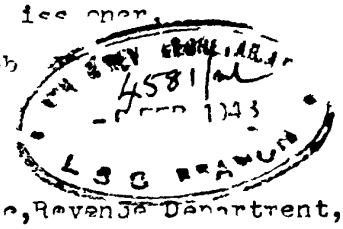
I have the honour to be,
Sir,
Your most obedient Servant,

for Deputy Commissioner, Chitradurga

C M F 2/

(Absent Hd Quarters)

No AC.331/ C-47 Office of the Deputy Commissioner,
Chitaldrug District,
Chitaldrug, dated, 3rd Feb

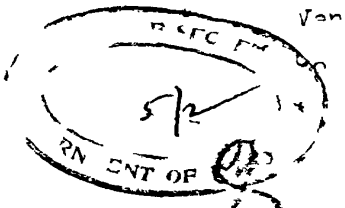


To

Syed Abdul Aleem Esq., B A ",
Secretary to the Government of Mysore, Revenue Department,
Bangalore

Sir,

In inviting kind reference to my letter of even No dated 9-12-1947, I have the honour to request that early sanction of Govt may kindly be obtained to the election of Mr B Venkatesh as President of the Chitaldrug Municipal Council and the same notified in the Mysore Gazette



I have the honour to be,
Sir,
Your most obedient Servant,
K. A Calligan
Deputy Commissioner,
Chitaldrug District

C F 1/

M(3207

29-1-48 Minister in L S G

The file in question was handed over to the Minister for Local Self Govt on 29/1/48 (Mins 3207) Mins maybe asked in connection with renewing Loan

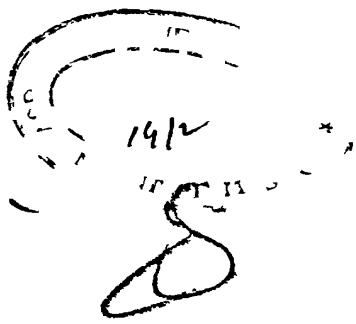
7/11/48

L. S. G.

6/2/48

4581
encl

Transfer D No 3207 encl
was been returned to me
Nuneaton Section on 11 2 48
anew Reg No 1155
encl Bx)
13 2 48



Orders have now been issued on 16 2 48
May be recorded in the Connected file

16/2/48

Appendix F G—11 No 4

SUBJECT Election of President, Town Municipal Council, Chellakere in Chitaldrug District

May be abstracted

Section

File No 40-47

Serial No 154

Diary No of letter replied to

No Three Cores 13497

To

The Deputy Commissioner,
Chitaldrug Dt
Chitaldrug

General and Revenue Secretariat

( )

the *19*

Date of issue 16-2-48

Signed by Mr G R Rao

List of enclosures

Copied by

Examined by

Sir,

With reference to your letter No A&C 561/46-47, dated the 9th December 1947 on the above subject, I am directed to state that the election of Mr B Venkatesan, as non-official President of the Town Municipal Council, Chellakere which was held on the 15th May 1947 ~~is stated to have taken place at a meeting held on the~~ in the meeting of the Municipal Council held on the 15th May 1947

WD 06 65—GPB—8 000—9-8-47

is set aside.

2 I am to add that a fresh election may be held for electing a President for this Municipality and necessary actions may be taken in this behalf, in accordance with rules prescribed ~~early as practicable~~ immediately

3 The records accompany

I have the

honour

to be

Sir

Your most obedient servant

Sd/-

for Secretary to Govt.

for Revenue Dept.

13/2/48

Fr. 13.2.48

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L13497/mL GC 47-154 LSR

General and Revenue Secretariat

Dated Bangalore 16 2 — *1948*

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore
Revenue Department

To

The Deputy Commissioner,
Chitaldrug District,
Chitaldrug

SIR

Subject Election of President, Town Municipal Council, Chellakere in Chitaldrug District

---

With reference to your letter No AS C 561/46-47, dated the 9th December 1947, on the above subject, I am directed to state that the election of Mr B Venkatesar, as non-official President of the Town Municipal Council, Chellakere, which took place at the meeting of the Municipal Council held on the 15th May 1947, is set aside

I am to add that a fresh election may be held for electing a President for this Municipality in accordance with rules prescribed and necessary action may be taken in this behalf immediately

p t o.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L13497/L40-67 154 **General and Revenue Secretariat**

Dated Bangalore 16-2-1948

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore
Revenue Department

To

The Deputy Commissioner,
Chitaldrug District
Chitaldrug

SIR

Subject -lection of President, Town Municipal Council, Chellakere in Chitaldrug District

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With reference to your letter No A6 C 561/46-47, dated the 9th December 1947, on the above subject, I am directed to state that the election of Mr R Venkatesan, as non-official President of the Town Municipal Council, Chellakere which took place at the meeting of the Municipal Council held on the 15th May 1947, is set aside

I am to add that a fresh election may be held for electing a President for this Municipality in accordance with rules prescribed and necessary action may be taken in this behalf immediately

p t o

The records accompany

I have the honour to be,
Sir,
Your most obedient Servant,

Offg
Asst Revenue Secretary to Government

LC/3